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E.O. 11652: N/A
TAGS: ENRG, MNUS, PARM, UK
SUB: SUMMARY OF WINDSCALE REPORT

REF: LONDON 3660

1. THE REPORT APPEARS IN TWO VOLUMES; THE SECOND CONTAINING LISTS OF WITNESSES AND BIBLIOGRAPHY OF CITED DOCUMENTS. VOLUME ONE IS ORGANIZED UNDER 18 HEADINGS AS FOLLOWS: (1) INTRODUCTION, (2) ESSENTIAL BACKGROUND, (3) HISTORY OF THE APPLICATION, (4) SCOPE OF THE INQUIRY, (5) SUMMARY OF CONTENTIONS AND STRUCTURE OF THE REPORT, (6) THE NUCLEAR WEAPONS PROLIFERATION QUESTION, (7) TERRORISM AND CIVIL LIBERTIES, (8) THE NEED FOR REPROCESSING OF OXIDE FUEL AND RELATIONSHIP TO THE FBR QUESTION, (9) FINANCIAL ASPECTS, (10) ROUTINE DISCHARGES - RISKS, (11) RISKS - ACCIDENTS, (12) SIZE OF PLANT, (13) PUBLIC HOSTILITY, (14) CONVENTIONAL PLANNING ISSUES, (15) THE INQUIRY ITSELF, (16) OVERALL CONCLUSION AND RECOMMENDATION, (17) SUMMARY OF PRINCIPAL CONCLUSIONS AND RECOMMENDATIONS, (18) MISCELLANEOUS MATTERS. BECAUSE OF THEIR PARTICULAR INTEREST TO US POLICY MAKERS, SECTIONS (6), (16) AND (17) ARE QUOTED UNCLASSIFIED

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BELOW IN THEIR ENTIRETY. COPIES OF BOTH VOLUMES HAVE BEEN AIR-POUCHED TO BORIGHT, OES.

2. SECTION (6) THE NUCLEAR WEAPONS PROLIFERATION QUESTION.
6.1 THE POSSIBLE EFFECT OF THE BUILDING OF THORP UPON THE SPREAD OF NUCLEAR WEAPON CAPABILITY WAS

MUCH CANVASSED BEFORE ME. IT FORMED THE MAIN GROUND UPON WHICH FOE SUBMITTED THAT A DECISION ON THE BUILDING OF THE PLANT SHOULD BE DELAYED FOR AT LEAST TEN YEARS AND THUS THAT THE PRESENT APPLICATION SHOULD BE REJECTED. IN THIS THEY WERE SUPPORTED BY A NUMBER OF OTHER OBJECTORS AND THOSE WHO DID NOT POSITIVELY OBJECT ON THIS PARTICULAR GROUND EXPRESSED ANXIETIES IN CONNECTION WITH IT. BNFL ON THE OTHER HAND CONTENDED THAT THE BUILDING OF THORP, FAR FROM TENDING TO INCREASE OR ACCELERATE THE SPREAD OF NUCLEAR WEAPON CAPABILITY, WOULD TEND TO DECREASE OR DELAY SUCH SPREAD.

6.2 A NUCLEAR BOMB CAN BE CONSTRUCTED WITH THE GRADE OF PLUTONIUM RECOVERED BY REPROCESSING. A COUNTRY, WHICH HAD IN ITS HANDS SUCH PLUTONIUM, COULD PRODUCE A BOMB OR BOMBS MORE RAPIDLY, AND WITH LESS RISK OF ITS ACTIONS BEING DETECTED IN TIME FOR INTERNATIONAL DIPLOMATIC PRESSURE TO BE EXERTED, THAN IF IT HAD NO SUCH PLUTONIUM. IT WAS SUBMITTED, THEREFORE, THAT IF THORP WERE BUILT AND USED TO REPROCESS FOREIGN FUELS, AND IF THE RECOVERED PLUTONIUM WERE RETURNED TO THE COUNTRIES CONCERNED, THIS MUST INEVITABLY INCREASE THE PROLIFERATION RISKS. THIS ARGUMENT DOES NOT APPLY TO THE REPROCESSING OF UK FUEL, BOTH BECAUSE WE ALREADY HAVE NUCLEAR WEAPON CAPABILITY AND BECAUSE THE PLUTONIUM

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ALREADY RECOVERED AND YET TO BE RECOVERED FROM MAGNOX FUEL IS ENOUGH TO MANUFACTURE A GREAT NUMBER OF BOMBS. NOR DOES THE ARGUMENT APPLY TO THE REPROCESSING FUEL FROM, AND RETURN OF THE RECOVERED PLUTONIUM TO, COUNTRIES WHICH, LIKE OURSELVES, ARE ALREADY NUCLEAR WEAPON POWERS. IT IS, HOWEVER, CONTENDED THAT, EVEN IF THORP WERE USED WHOLLY FOR THE REPROCESSING OF FUEL FROM UK REACTORS AND FROM NUCLEAR WEAPON POWERS, IT WOULD STILL INDIRECTLY INCREASE THE RISK OF PROLIFERATION ON THE GROUNDS:

- A. THAT THE PLUTONIUM MIGHT BE STOLEN WHILST IN TRANSPORT;
- B. THAT, IF THE UK WERE TO EMBARK ON REPROCESSING, IT WOULD BE DIFFICULT IF NOT IMPOSSIBLE TO PREVENT OTHER COUNTRIES ALSO DOING SO, WITH THE RESULT THAT THEY WOULD THEN BE IN A POSITION TO MOVE RAPIDLY TO THE CREATION OF NUCLEAR WEAPONS.

6.3 THE CONTRARY ARGUMENT IS (A) THAT THE REPROCESSING OF FOREIGN FUEL WOULD LESSEN THE INCENTIVE OF THE COUNTRIES SENDING FUEL FOR REPROCESSING TO DEVELOP THEIR OWN REPROCESSING FACILITIES AND (B) THAT, IF THE PLUTONIUM WERE RETURNED IN THE

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FORM OF FUEL RODS, AFTER BRIEF IRRADIATION TO MAKE THEM DANGEROUS TO HANDLE, THIS WOULD BOTH PRACTICALLY ELIMINATE THE RISKS OF THEFT IN TRANSPORT AND RENDER REPROCESSING OF THE IRRADIATED FUEL RODS NECESSARY BEFORE WEAPON MATERIAL WOULD BE AVAILABLE. THIS WOULD, IT WAS ARGUED, BE PREFERABLE TO DRIVING OTHER COUNTRIES INTO DEVELOPING THEIR OWN REPROCESSING FACILITIES.

6.4 THE CONTENTION THAT THORP WOULD HAVE A PROLIFERATING EFFECT WAS SUPPORTED BY BOTH ORAL AND DOCUMENTARY EVIDENCE FROM A NUMBER OF EMINENT PEOPLE WITH WIDE KNOWLEDGE OF THE PROBLEMS INVOLVED. THE PRINCIPAL WITNESSES WHO GAVE EVIDENCE ON THIS SUBJECT WERE: FOR FOE, MR. WALTER PATTERSON AND PROFESSOR A. WOHLSTETTER, PROFESSOR OF POLITICAL SCIENCE AT THE UNIVERSITY OF CHICAGO; FOR THE NATURAL RESOURCES DEFENCE COUNCIL (NRDC), DR. T.B. COCHRAN, PHYSICIST STAFF SCIENTIST; FOR THE NATIONAL PEACE COUNCIL (NPC), MRS. SHEILA OAKES AND FOR THE TOWN AND COUNTRY PLANNING ASSOCIATION (TCPA), PROFESSOR J. ROTBLAT, EMERITUS PROFESSOR OF

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PHYSICS AT THE UNIVERSITY OF LONDON.

THE OPPOSITE VIEW WAS SUPPORTED BY THE ORAL EVIDENCE OF DR. D.G. AVERY OF BNFL AND MR. C. HERZIG FROM THE DEPARTMENT OF ENERGY. IT, TOO, WAS ALSO SUPPORTED BY DOCUMENTARY EVIDENCE.

6.5 AN EVALUATION OF THE OPPOSING CONTENTIONS REQUIRES AN EXAMINATION OF THE FACTS OF, AND LEADING UP TO, THE PRESENT SITUATION. IT IS FIRST NECESSARY TO OBSERVE THAT THE SUPPLY OF PLUTONIUM TO NON-WEAPON COUNTRIES HAS BEEN GOING ON FOR A CONSIDERABLE TIME, AS HAS THE SUPPLY OF URANIUM ENRICHED TO MORE THAN 20 PER CENT IN URANIUM 235, AT OR ABOVE WHICH LEVEL OF ENRICHMENT IT IS REGARDED AS WEAPON MATERIAL, AND OF URANIUM 233 WHICH ALSO IS FISSILE MATERIAL. BNFL HAS ITSELF EXPORTED PLUTONIUM TO A NUMBER OF SUCH COUNTRIES UNDER WRITTEN GOVERNMENT AUTHORISATIONS. THE USA HAS EXPORTED CONSIDERABLE QUANTITIES OF ALL THREE SUBSTANCES. I HAD NO EVIDENCE BEFORE ME OF THE ACCUMULATED TOTAL EXPORTS FROM THE USA UP TO THE PRESENT TIME BUT PROFESSOR WOHLSTETER, IN AN ARTICLE ENTITLED 'SPREADING THE BOMB WITHOUT QUITE BREAKING THE RULES' (FOE28), WRITTEN AND PRODUCED IN EVIDENCE BY HIM, STATED: 'WE (THE USA) HAVE FOR SOME TIME EXPORTED TO NON-WEAPON STATES, FOR USE IN RESEARCH, BOTH SEPARATED PLUTONIUM AND HIGHLY ENRICHED URANIUM, WHICH BRING THEM CLOSER TO THE BOMB THAN DO THE FACILITIES FOR SEPARATING SUCH MATERIAL. FOR EXAMPLE, FROM MID-1968 TO SPRING 1976 WE EXPORTED 697 KILOGRAMS OF HIGHLY ENRICHED URANIUM AND 104 KILOGRAMS OF SEPARATED PLUTONIUM TO JAPAN AND 2,170 KILOGRAMS OF HIGHLY ENRICHED URANIUM AND 349 KILOGRAMS OF SEPARATED PLUTONIUM TO THE

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FEDERAL REPUBLIC OF GERMANY.' FURTHERMORE A TABLE CONTAINED IN THE PELICAN BOOK 'SOFT ENERGY PATHS' BY AMORY B. LOVINS (WA 150) SETS OUT TOTAL GROSS EXPORTS OF STRATEGIC NUCLEAR MATERIALS FROM THE USA UP TO 31 MARCH 1976. THIS SHOWS SUPPLIES TO A LARGE NUMBER OF NON-NUCLEAR-WEAPON COUNTRIES IN MORE THAN SUFFICIENT QUANTITIES TO MAKE ONE OR MORE BOMBS. SUCH EXPORTS HAVE BEEN MADE UNDER CONTRACTS CONTAINING UNDERTAKINGS TO USE FOR PEACEFUL PURPOSES AND TO ACCEPT THE APPLICATION OF VARIOUS SAFEGUARDS. THESE UNDERTAKINGS, SO FAR AS IS KNOWN TO ME, HAVE BEEN HONOURED.

6.6 AT PRESENT THE SYSTEM FOR PREVENTING THE SPREAD OF NUCLEAR WEAPONS IS FOUNDED ON A NUMBER OF AGREEMENTS OF WHICH THE PRINCIPAL ONES ARE THE 1956 INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) STATUTE (BNFL269), THE 1957 TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT)(BNFL51). IT IS NECESSARY TO REFER TO CERTAIN PROVISIONS OF THOSE THREE DOCUMENTS. BEFORE DOING SO, HOWEVER, IT SHOULD BE MENTIONED THAT THE SYSTEM OF SAFEGUARDS WHICH THEY CONTAIN OR FOR WHICH THEY PROVIDE IS ESSENTIALLY ONE OF REPORTING AND INSPECTION. THIS SYSTEM WAS ACKNOWLEDGED BY EVERYONE TO BE IN NEED OF STRENGTHENING AND IMPROVEMENT. I SHALL NOT THEREFORE LENGTHEN THIS REPORT BY DESCRIBING THE SYSTEM AND ITS SHORTCOMINGS. IT IS SUFFICIENT TO SAY THAT IT COULD AND SHOULD BE IMPROVED, E.G. BY INCREASING THE NUMBERS OF INSPECTORS AND, POSSIBLY, BY THE DEVELOPMENT AND INTRODUCTION OF IMPROVED METHODS

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FOR DETECTING ANY DIVERSION OF FISSILE MATERIAL FROM PEACEFUL USES.

6.7 THE IAEA STATUTE CONTAINS THE FOLLOWING IMMEDIATELY RELEVANT PROVISIONS:

'ARTICLE II - OBJECTIVES

THE AGENCY SHALL SEEK TO ACCELERATE AND ENLARGE THE CONTRIBUTION OF ATOMIC ENERGY TO PEACE,

HEALTH AND PROSPERITY THROUGHOUT THE WORLD. IT SHALL ENSURE, SO FAR AS IT IS ABLE, THAT ASSISTANCE PROVIDED BY IT OR AT ITS REQUEST OR UNDER ITS SUPERVISION OR CONTROL IS NOT USED IN SUCH A WAY AS TO FURTHER ANY MILITARY PURPOSE.

ARTICLE III - FUNCTIONS

1. TO ENCOURAGE AND ASSIST RESEARCH ON, AND DEVELOPMENT AND PRACTICAL APPLICATION OF ATOMIC ENERGY FOR PEACEFUL USES THROUGHOUT THE WORLD; AND, IF REQUESTED TO DO SO, TO ACT AS AN INTER-MEDIARY FOR THE PURPOSES OF SECURING THE PERFORMANCE OF SERVICES OR THE SUPPLYING OF MATERIALS, EQUIPMENT, OR FACILITIES BY ONE MEMBER OF THE AGENCY FOR ANOTHER; AND TO PERFORM

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AN OPERATION OR SERVICE USEFUL IN RESEARCH ON, OR DEVELOPMENT OF PRACTICAL APPLICATION OF, ATOMIC ENERGY FOR PEACEFUL PURPOSES.

2. TO MAKE PROVISION, IN ACCORDANCE WITH THIS STATUTE, FOR MATERIALS, SERVICES, EQUIPMENT, AND FACILITIES TO MEET THE NEEDS OF RESEARCH ON, AND DEVELOPMENT AND PRACTICAL APPLICATION OF, ATOMIC ENERGY FOR PEACEFUL PURPOSES, INCLUDING THE PRODUCTION OF ELECTRICAL POWER, WITH DUE CONSIDERATION FOR THE NEEDS OF THE UNDER-DEVELOPED AREAS OF THE WORLD.

3. TO FOSTER THE EXCHANGE OF SCIENTIFIC AND TECHNICAL INFORMATION ON PEACEFUL USES OF ATOMIC ENERGY.

4. TO ENCOURAGE THE EXCHANGE AND TRAINING OF SCIENTISTS AND EXPERTS IN THE FIELD OF PEACEFUL USES OF ATOMIC ENERGY.

5. TO ESTABLISH AND ADMINISTER SAFEGUARDS DESIGNED TO ENSURE THAT SPECIAL FISSIONABLE AND OTHER MATERIALS, SERVICES, EQUIPMENT, FACILITIES, AND INFORMATION MADE AVAILABLE BY THE AGENCY OR AT ITS REQUEST OR UNDER ITS SUPERVISION OR CONTROL ARE NOT USED IN SUCH A WAY AS TO FURTHER ANY MILITARY PURPOSE; AND TO APPLY SAFEGUARDS, AT THE REQUEST OF THE PARTIES, TO ANY BILATERAL OR MULTILATERAL ARRANGEMENT, OR AT THE REQUEST OF A STATE, TO ANY OF THAT STATE'S ACTIVITIES IN THE FIELD OF ATOMIC ENERGY.

ARTICLE XX - DEFINITIONS

1. THE TERM 'SPECIAL FISSIONABLE MATERIAL' MEANS PLUTONIUM 239; URANIUM 233; URANIUM ENRICHED IN THE ISOTOPES 235 OR 233; ANY MATERIAL CONTAINING ONE OR MORE OF THE FOREGOING;

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AND SUCH OTHER FISSIONABLE MATERIAL AS THE BOARD OF GOVERNORS SHALL FROM TIME TO TIME DETERMINE; BUT THE TERM 'SPECIAL FISSIONABLE MATERIAL' DOES NOT INCLUDE SOURCE MATERIAL.

3. THE TERM 'SOURCE MATERIAL' MEANS URANIUM CONTAINING THE MIXTURE OF ISOTOPES OCCURRING IN NATURE; URANIUM DEPLETED IN THE ISOTOPE 235; THORIUM; ANY OF THE FOREGOING IN THE FORM OF METAL, ALLOY, CHEMICAL COMPOUND, OR CONCENTRATE; ANY OTHER MATERIAL CONTAINING ONE OR MORE OF THE FOREGOING IN SUCH CONCENTRATION AS THE BOARD OF GOVERNORS SHALL FROM TIME TO TIME DETERMINE; AND SUCH OTHER MATERIALS AS THE BOARD OF GOVERNORS SHALL FROM TIME TO TIME DETERMINE'.

AT THE TIME WHEN THE STATUTE WAS ENTERED INTO IT WAS GENERALLY ACCEPTED THAT THE FUTURE OF NUCLEAR POWER INCLUDED THE USE OF PLUTONIUM 239 IN FBRs. THE PROVISIONS QUOTED ABOVE ARE SUFFICIENT TO SHOW THAT THE INTENTION THEN WAS THAT PLUTONIUM 239 SHOULD BE SEPARATED, THAT THE TECHNOLOGY BOTH FOR REPROCESSING AND FOR FBRs SHOULD BE DEVELOPED AND FREELY EXCHANGED, AND THAT PLUTONIUM 239 SHOULD BE MADE AVAILABLE TO ALL MEMBERS.

6.8 THE SAME INTENTION CAN BE SEEN IN THE EURATOM TREATY. I REFER SIMPLY TO:

'ARTICLE 52

1. THE SUPPLY OF ORES, SOURCE MATERIALS AND SPECIAL FISSIONABLE MATERIALS SHALL BE ENSURED, IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, BY MEANS OF A COMMON SUPPLY POLICY ON THE

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PRINCIPLE OF EQUAL ACCESS TO SOURCES OF SUPPLY

AND

ARTICLE 93

MEMBER STATES SHALL ABOLISH BETWEEN THEMSELVES,
ONE YEAR AFTER ENTRY INTO FORCE OF THIS TREATY,
ALL CUSTOMS DUTIES ON IMPORTS AND EXPORTS OR
CHARGES HAVING EQUIVALENT EFFECT, AND ALL
QUANTITATIVE RESTRICTIONS ON IMPORTS AND EXPORTS,
IN RESPECT OF:

A. PRODUCTS IN LISTS A(1) AND A(2),

LIST A(1) INCLUDES 'URANIUM ENRICHED IN URANIUM
235', 'URANIUM ENRICHED IN PLUTONIUM' AND
'PLUTONIUM' ITSELF. LIST A(2) INCLUDES:

'EQUIPMENT SPECIALLY DESIGNED FOR THE
CHEMICAL PROCESSING OF RADIOACTIVE MATERIAL:

- EQUIPMENT FOR THE SEPARATION OF IRRADIATED
FUEL;

- BY CHEMICAL PROCESSES (SOLVENTS, PRECIPITATION,
ION EXCHANGE, ETC);

- BY PHYSICAL PROCESSES (FRACTIONAL DISTILLATION,
ETC);

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- WASTE PROCESSING EQUIPMENT;

- FUEL RECYCLING EQUIPMENT.'

THE INTENTION IS MADE VERY CLEAR BY THE SPECIFIC
PROVISION FOR THE INCLUSION OF BOTH PLUTONIUM AND
REPROCESSING EQUIPMENT IN A NUCLEAR COMMON MARKET.

6.9 I COME NOW TO THE NPT ITSELF, TO WHICH THERE
ARE AT PRESENT 103 PARTIES. AGAIN, AT THE TIME IT
WAS ENTERED INTO, IT WAS GENERALLY ACCEPTED THAT
THE FUTURE OF NUCLEAR POWER LAY IN REPROCESSING AND
THE USE OF SEPARATED PLUTONIUM IN FBRs.

6.10 THE PREAMBLE TO THE NPT INCLUDES THE FOLLOWING:-

'THE STATES CONCLUDING THIS TREATY ...

UNDERTAKING TO COOPERATE IN FACILITATING THE
APPLICATION OF INTERNATIONAL ATOMIC ENERGY AGENCY
SAFEGUARDS ON PEACEFUL NUCLEAR ACTIVITIES.

EXPRESSING THEIR SUPPORT FOR RESEARCH, DEVELOP-

MENT AND OTHER EFFORTS TO FURTHER THE APPLICATION, WITHIN THE FRAMEWORK OF THE INTERNATIONAL ATOMIC ENERGY AGENCY SAFEGUARDS SYSTEM, OF THE PRINCIPLE OF SAFEGUARDING EFFECTIVELY THE FLOW OF SOURCE AND SPECIAL FISSIONABLE MATERIALS BY USE OF INSTRUMENTS AND OTHER TECHNIQUES AT CERTAIN STRATEGIC POINTS.

AFFIRMING THE PRINCIPLE THAT THE BENEFITS OF PEACEFUL APPLICATIONS OF NUCLEAR TECHNOLOGY, INCLUDING ANY TECHNOLOGICAL BY-PRODUCTS WHICH MAY BE DERIVED BY NUCLEAR-WEAPON STATES FROM THE DEVELOPMENT OF NUCLEAR EXPLOSIVE DEVICES SHOULD BE AVAILABLE FOR PEACEFUL PURPOSES TO ALL PARTIES TO THE TREATY, WHETHER NUCLEAR-WEAPON OR NON-NUCLEAR-WEAPON STATES.

CONVINCED THAT, IN FURTHERANCE OF THIS PRINCIPLE,
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ALL PARTIES TO THE TREATY ARE ENTITLED TO PARTICIPATE IN THE FULLEST POSSIBLE EXCHANGE OF SCIENTIFIC INFORMATION FOR, AND TO CONTRIBUTE ALONE OR IN COOPERATION WITH OTHER STATES TO, THE FURTHER DEVELOPMENT OF THE APPLICATIONS OF ATOMIC ENERGY FOR PEACEFUL PURPOSES.'

6.11 THE EXPRESSION 'SOURCE AND SPECIAL FISSIONABLE MATERIALS' IS NOT DEFINED IN THE TREATY BUT, IN VIEW OF THE REFERENCE OF THE IAEA SAFEGUARDS, THERE CAN BE LITTLE DOUBT THAT IT WAS TO HAVE THE SAME MEANING AS IN THE IAEA STATUTE. THE REFERENCE TO SAFEGUARDING THE FLOW OF SPECIAL FISSIONABLE MATERIAL MUST THEREFORE BE READ AS INCLUDING THE SAFEGUARDING OF THE FLOW OF PLUTONIUM.

6.12 IMMEDIATELY RELEVANT PROVISIONS OF THE TREATY ITSELF ARE:-

'ARTICLE I

EACH NUCLEAR-WEAPON STATE PARTY TO THE TREATY UNDERTAKES NOT TO TRANSFER TO ANY RECIPIENT WHATSOEVER NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES DIRECTLY, OR INDIRECTLY; AND NOT IN ANY WAY TO ASSIST, ENCOURAGE, OR INDUCE ANY NON-NUCLEAR-WEAPON STATE TO MANUFACTURE OR OTHERWISE ACQUIRE NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES, OR CONTROL OVER SUCH WEAPONS OR EXPLOSIVE DEVICES.

ARTICLE II

EACH NON-NUCLEAR-WEAPON STATE PARTY TO THE TREATY UNDERTAKES NOT TO RECEIVE THE TRANSFER FROM ANY

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TRANSFER WHATSOEVER OF NUCLEAR WEAPONS OR OTHER
NUCLEAR EXPLOSIVE DEVICES OR OF CONTROL OVER SUCH
WEAPONS OR EXPLOSIVE DEVICES DIRECTLY, OR INDIRECT-
LY; NOT TO MANUFACTURE OR OTHERWISE ACQUIRE NUC-
LEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES;
AND NOT TO SEEK OR RECEIVE ANY ASSISTANCE IN THE
MANUFACTURE OR NUCLEAR WEAPONS OR OTHER NUCLEAR
EXPLOSIVE DEVICES.

ARTICLE III

1. EACH NON-NUCLEAR-WEAPON STATE PARTY TO THE
TREATY UNDERTAKES TO ACCEPT SAFEGUARDS .. FOR THE
EXCLUSIVE PURPOSE OF VERIFICATION OF THE FULFIL-
MENT OF ITS OBLIGATIONS ASSUMED UNDER THIS TREATY
WITH A VIEW TO PREVENTING DIVERSION OF NUCLEAR
ENERGY FROM PEACEFUL USES TO NUCLEAR WEAPONS OR
OTHER NUCLEAR EXPLOSIVE DEVICES. PROCEDURES FOR
THE SAFEGUARDS REQUIRED BY THIS ARTICLE SHALL BE
FOLLOWED WITH RESPECT TO SOURCE OR SPECIAL
FISSIONABLE MATERIAL WHETHER IT IS BEING PRODUCED,
PROCESSED OR USED IN ANY PRINCIPAL NUCLEAR FACILITY

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OR IS OUTSIDE ANY SUCH FACILITY ...

2. EACH STATE PARTY TO THE TREATY UNDERTAKES NOT TO PROVIDE: (A) SOURCE OR SPECIAL FISSIONABLE MATERIAL, OR (B) EQUIPMENT OR MATERIAL SPECIALLY DESIGNED OR PREPARED FOR THE PROCESSING , USE OR PRODUCTION OF SPECIAL FISSIONABLE MATERIAL TO ANY NON-NUCLEAR-WEAPON STATE FOR PEACEFUL PURPOSES, UNLESS THE SOURCE OR SPECIAL FISSIONABLE MATERIAL SHALL BE SUBJECT TO THE SAFEGUARDS REQUIRED BY THIS ARTICLE.

3. THE SAFEGUARDS REQUIRED BY THIS ARTICLE SHALL BE IMPLEMENTED IN A MANNER DESIGNED TO COMPLY WITH ARTICLE IV OF THIS TREATY, AND TO AVOID HAMPERING THE ECONOMIC OR TECHNOLOGICAL DEVELOPMENT OF THE PARTIES OR INTERNATIONAL COOPERATION IN THE FIELD OF PEACEFUL NUCLEAR ACTIVITIES, INCLUDING THE INTERNATIONAL EXCHANGE OF NUCLEAR MATERIAL AND EQUIPMENT FOR THE PROCESSING, USE OR PRODUCTION OF NUCLEAR MATERIAL FOR PEACEFUL PURPOSES IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND THE PRINCIPLE OF SAFEGUARDING SET FORTH IN THE PREAMBLE OF THE TREATY.

4. NON-NUCLEAR-WEAPON STATES PARTY TO THE TREATY SHALL CONCLUDE AGREEMENTS WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY TO MEET THE REQUIREMENTS OF THIS ARTICLE EITHER INDIVIDUALLY OR TOGETHER WITH OTHER STATES IN ACCORDANCE WITH THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY. NEGOTIATION OF SUCH AGREEMENTS SHALL COMMENCE WITHIN 180 DAYS FROM THE ORIGINAL ENTRY INTO FORCE OF THIS TREATY. FOR STATES DEPOSITING THEIR INSTRUMENTS OF RATIFICATION OR ACCESSION AFTER THE

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180-DAY PERIOD, NEGOTIATION OF SUCH AGREEMENTS SHALL COMMENCE NOT LATER THAN THE DATE OF SUCH DEPOSIT. SUCH AGREEMENTS SHALL ENTER INTO FORCE NOT LATER THAN 18 MONTHS AFTER THE DATE OF INITIATION OF NEGOTIATIONS.

ARTICLE IV

1. NOTHING IN THIS TREATY SHALL BE INTERPRETED AS AFFECTING THE INALIENABLE RIGHT OF ALL THE PARTIES TO THE TREATY TO DEVELOP RESEARCH, PRODUCTION AND USE OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES WITHOUT DISCRIMINATION AND IN CONFORMITY WITH ARTICLES I AND II OF THIS TREATY.

2. ALL THE PARTIES TO THE TREATY UNDERTAKE TO FACILITATE, AND HAVE THE RIGHT TO PARTICIPATE IN,

THE FULLEST POSSIBLE EXCHANGE OF EQUIPMENT, MATERIALS AND SCIENTIFIC AND TECHNOLOGICAL INFORMATION FOR THE PEACEFUL USES OF NUCLEAR ENERGY. PARTIES TO THE TREATY IN A POSITION TO DO SO SHALL ALSO COOPERATE IN CONTRIBUTING ALONE OR TOGETHER WITH OTHER STATES OR INTERNATIONAL ORGANISATIONS TO THE FURTHER DEVELOPMENT OF THE APPLICATIONS OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES, ESPECIALLY IN THE TERRITORIES OF NON-NUCLEAR-WEAPON STATES PARTY TO THE TREATY, WITH DUE CONSIDERATION FOR THE NEEDS OF THE DEVELOPING AREAS OF THE WORLD.

ARTICLE X

1. EACH PARTY SHALL IN EXERCISING ITS NATIONAL SOVEREIGNTY HAVE THE RIGHT TO WITHDRAW FROM THE TREATY IF IT DECIDES THAT EXTRAORDINARY EVENTS,

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RELATED TO THE SUBJECT MATTER OF THIS TREATY, HAVE JEOPARDISED THE SUPREME INTERESTS OF ITS COUNTRY. IT SHALL GIVE NOTICE OF SUCH WITHDRAWAL TO ALL OTHER PARTIES TO THE TREATY AND TO THE UNITED NATIONS SECURITY COUNCIL THREE MONTHS IN ADVANCE. SUCH NOTICE SHALL INCLUDE A STATEMENT OF THE EXTRAORDINARY EVENTS IT REGARDS AS HAVING JEOPARDISED ITS SUPREME INTERESTS.'

6.13 THE EFFECT OF THE NPT APPEARS TO ME TO BE OF

PRIME IMPORTANCE IN THE EVALUATION OF THE NON-PROLIFERATION QUESTION. HAVING QUOTED FROM IT, I NOW DEAL WITH SUCH EFFECT. ARTICLE I CLEARLY DOES NOT, IN ITS FIRST PART, PREVENT THE TRANSFER OF PLUTONIUM. PLUTONIUM IS NEITHER A NUCLEAR WEAPON NOR AN EXPLOSIVE DEVICE. IT WAS, HOWEVER, SUGGESTED THAT THE SUPPLY OF PLUTONIUM WOULD OR COULD AMOUNT TO ASSISTING A NON-NUCLEAR-WEAPON STATE TO MANUFACTURE NUCLEAR WEAPONS OR OTHER EXPLOSIVE DEVICES, AND THAT IT WOULD OR COULD, THEREFORE, BE A BREACH OF ARTICLE I TO SUPPLY PLUTONIUM TO ANY OTHER THAN A NUCLEAR-WEAPON STATE. BY PARITY OF UNCLASSIFIED

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REASONING IT WOULD FOLLOW THAT A NON-NUCLEAR-WEAPON STATE TO MANUFACTURE NUCLEAR WEAPONS OR OTHER EXPLOSIVE DEVICES, AND THAT IT WOULD OR COULD, THEREFORE, BE A BREACH OF ARTICLE I TO SUPPLY PLUTONIUM TO ANY OTHER THAN A NUCLEAR-WEAPON STATE. BY PARITY OF REASONING IT WOULD FOLLOW THAT A NON-NUCLEAR-WEAPON STATE WOULD BE IN BREACH OF ARTICLE II IF IT SOUGHT TO HAVE ITS SPENT FUEL REPROCESSED AND THE PLUTONIUM RETURNED TO IT, BECAUSE POSSESSION OF THE PLUTONIUM WOULD IN FACT BE OF ASSISTANCE IN THE MANUFACTURE OF NUCLEAR WEAPONS, EVEN IF THE PLUTONIUM WERE INTENDED FOR USE AND USED ENTIRELY FOR PEACEFUL PURPOSES. SUCH AN ARGUMENT WITHOUT ANY QUALIFICATION IS DIFFICULT TO UNDERSTAND FOR, ALBEIT NOT SO DIRECTLY AS IN THE CASE OF PLUTONIUM, THE SUPPLY OF URANIUM ORE OR ENRICHED URANIUM ALSO PROVIDES ASSISTANCE IN THE MANUFACTURE OF NUCLEAR WEAPONS. RECOGNISING THIS DIFFICULTY PROFESSOR WOHLSTETTER SUGGESTED IN EVIDENCE THAT THE PROVISIONS OF ARTICLES I AND II SHOULD BE READ AS APPLYING TO THE SUPPLY OF ANYTHING WHICH COULD BE USED FOR MILITARY PURPOSES WITHOUT TIMELY WARNING, IE WITHOUT THERE BEING TIME FOR DETECTION AND THE EXERTION OF DIPLOMATIC PRESSURE. IF THE PROVISIONS WERE SO READ THE EMBARGO WOULD NOT THEN APPLY TO THE SUPPLY OF URANIUM OR SLIGHTLY ENRICHED URANIUM BUT WOULD APPLY TO THE SUPPLY OF PLUTONIUM. THAT THE TREATY HAS NOT BEEN SO UNDERSTOOD IS CLEAR. WERE IT SO READ THE CONSIDERABLE EXPORTS OF PLUTONIUM BOTH BY THE UK AND THE UNITED STATES TO NON-WEAPON STATES, TO WHICH I HAVE ALREADY ALLUDED, WOULD ALL HAVE BEEN IN BREACH OF THE TREATY, AS WOULD THEIR RECEIPT. UNCLASSIFIED

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NO-ONE AT THE TIME THEY WERE MADE APPARENTLY
THOUGHT THAT THIS WAS THE CASE.

6.14 THE SUGGESTED CONSTRUCTION OF ARTICLES I
AND II, WHICH DO NOT SPECIFICALLY REFER TO SPECIAL
FISSIONABLE MATERIAL, HAS TO BE CONSIDERED IN THE
LIGHT OF THE PROVISIONS OF ARTICLES III AND IV.

ARTICLE III, BY IMPOSING ON NON-NUCLEAR-WEAPON
STATES THE OBLIGATION TO ACCEPT SAFEGUARDS DESIGNED
TO PREVENT THE DIVERSION OF NUCLEAR ENERGY FROM
PEACEFUL USES AND APPLYING SUCH SAFEGUARDS TO
SOURCE OR SPECIAL FISSIONABLE MATERIAL, WHETHER IT
IS BEING PRODUCED, PROCESSED OR USED IN SUCH NON-
NUCLEAR-WEAPON STATES, APPEARS TO BE A CLEAR RECOG-
NITION THAT THE PRODUCTION AND USE OF SPECIAL
FISSIONABLE MATERIAL BY NON-NUCLEAR-WEAPON STATES
WAS ACCEPTED. MOREOVER ARTICLE III(2) SPECIFICALLY
DEALS WITH THE SUPPLY OF SPECIAL FISSIONABLE MAT-
TERIAL TO NON-NUCLEAR-WEAPON STATES AND PROHIBITS
SUCH SUPPLY EXCEPT SUBJECT TO THE SAFEGUARDS PROVID-
ED FOR BY ARTICLE III(1). SUCH SUPPLY CAN THEREFORE
HARDLY HAVE BEEN INTENDED TO BE WITHIN THE EMBARGO.

6.15 ARTICLE IV(1) DOES NOT APPEAR TO ME TO AFFECT
THE ARGUMENT WITHER WAY. THE RECOGNITION, WHICH IT
CONTAINS, THAT ALL PARTIES HAVE AN INALIENABLE
RIGHT TO DEVELOP RESEARCH, PRODUCTION AND USE OF
NUCLEAR ENERGY FOR PEACEFUL PURPOSES WITHOUT
DISCRIMINATION IS QUALIFIED BY THE WORDS 'IN
CONFORMITY WITH ARTICLES I AND II'. IF, THEREFORE,
ARTICLES I AND II ARE TO READ AS SUGGESTED, THE
INALIENABLE RIGHT WOULD ALSO HAVE TO BE READ AS

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QUALIFIED BY SOME SUCH WORDS AS 'PROVIDED THAT NO SUCH RESEARCH, PRODUCTION OR USE PUTS A PARTY IN A POSITION TO MANUFACTURE A NUCLEAR WEAPON WITHOUT TIMELY WARNING'. ARTICLE IV(2) DOES, HOWEVER, THROW FURTHER LIGHT ON THE MATTER AND IS OF SPECIAL IMPORTANCE BECAUSE IT CONTAINS A POSITIVE OBLIGATION WITH A CORRELATIVE RIGHT:-

1. EACH PARTY HAS AN OBLIGATION AND A RIGHT TO PARTICIPATE IN THE FULLEST EXCHANGE OF EQUIPMENT, MATERIALS AND SCIENTIFIC AND TECHNOLOGICAL INFORMATION FOR THE PEACEFUL USES OF NUCLEAR ENERGY.
2. EACH PARTY IS OBLIGED TO COOPERATE IN CONTRIBUTING TO THE FURTHER DEVELOPMENT OF THE APPLICATIONS OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES ESPECIALLY IN THE TERRITORIES OF NON-NUCLEAR-WEAPON STATES.

SINCE THE PRODUCTION OF PLUTONIUM BY REPROCESSING AND ITS USE IN FAST BREEDERS WAS AT THE TIME OF THE TREATY THE ACCEPTED FUTURE, I FIND IT DIFFICULT TO SEE HOW IT CAN BE ARGUED THAT ANY PARTY, WHETHER
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A NUCLEAR-WEAPON OR NON-NUCLEAR-WEAPON PARTY, HAS NOT THE RIGHT (A) TO DEVELOP AND USE REPROCESSING FOR THE PRODUCTION OF PLUTONIUM (B) TO DEVELOP AND USE THE FAST BREEDER (C) TO HAVE ACCESS TO THE TECHNOLOGY AND EQUIPMENT FOR CREATING REPROCESSING FACILITIES AND (D) TO HAVE ACCESS TO REPROCESSING FACILITIES WHICH MAY EXIST IN THE TERRITORY OF ANOTHER PARTY AND TO THE PLUTONIUM PRODUCED BY THE USE OF SUCH FACILITIES. I ALSO FIND IT DIFFICULT TO SEE HOW A PARTY, WHICH HAS DEVELOPED REPROCESSING TECHNOLOGY OR CREATED REPROCESSING FACILITIES, WOULD BE OTHERWISE THAN IN BREACH OF THE AGREEMENT, IF IT BOTH REFUSED TO SUPPLY THE TECHNOLOGY TO ANOTHER PARTY AND REFUSED TO REPROCESS FOR IT.

6.16 IT WAS SUBMITTED ON BEHALF OF FOE THAT THE TREATY COULD NOT BE CONSTRUED SO AS TO IMPOSE AN OBLIGATION OF THIS NATURE, AT ALL EVENTS IF IT INVOLVED ECONOMIC LOSS. THIS ARGUMENT APPEARS TO ME UNSUSTAINABLE. THE NPT IS ON ITS FACE A

STRAIGHTFORWARD BARGAIN. THE ESSENCE OF THAT BARGAIN WAS THAT, IN EXCHANGE FOR AN UNDERTAKING FROM NON-NUCLEAR-WEAPON PARTIES TO REFRAIN FROM MAKING OR ACQUIRING NUCLEAR WEAPONS AND TO SUBMIT TO SAFEGUARDS WHEN PROVIDED FOR PEACEFUL PURPOSES WITH MATERIAL WHICH WAS CAPABLE OF DIVERSION, THE NUCLEAR WEAPON STATES WOULD AFFORD EVERY ASSISTANCE TO NON-NUCLEAR-WEAPON STATES 'IN THE DEVELOPMENT OF NUCLEAR ENERGY'. THIS, IN THE LIGHT OF SURROUNDING CIRCUMSTANCES, MUST SURELY HAVE INCLUDED THE DEVELOPMENT OF REPROCESSING, THE PRODUCTION OF PLUTONIUM THEREBY AND THE USE OF THE FAST BREEDER. THAT THE BARGAIN MIGHT INVOLVE NUCLEAR-WEAPON STATES IN EXPENSE OR LOSS IS NOT SURPRISING. SUCH UNCLASSIFIED

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EXPENSE OR LOSS IS A NATURAL PRICE FOR SECURING THE UNDERTAKING FROM NON-NUCLEAR-WEAPON STATES NOT TO BECOME SUCH STATES.

6.17 IF IT WERE NECESSARY OR INDEED PERMISSIBLE FOR ME TO DECIDE WHETHER ONE OR MORE PARTIES TO THE TREATY COULD, WITHOUT BREACH, DENY REPROCESSING TECHNOLOGY, REPROCESSING FACILITIES OR REPROCESSING FRUITS TO OTHER PARTIES, OR COULD, WITHOUT BREACH, SEEK TO COERCE OTHER PARTIES INTO ABANDONING REPROCESSING AND THE FBR BY WITHHOLDING OR THREATENING TO WITHHOLD SUPPLIES OF URANIUM OR ENRICHED URANIUM FOR THEIR EXISTING REACTORS, I SHOULD HAVE LITTLE HESITATION IN DECIDING THAT IT COULD NOT. IN THE CONTEXT OF PROLIFERATION RISKS, HOWEVER, WHAT IS AS OR MORE IMPORTANT THAN THE WORDS USED, CLEAR AS THEY APPEAR TO ME TO BE, IS THE SPIRIT OF THE TREATY.

6.18 ABOUT THIS THERE CAN, I THINK, BE NO DOUBT. I QUOTE FROM THE TRANSCRIPT OF THE EVIDENCE OF MR. PATTERSON (FOE) WHEN BEING QUESTIONED BY ME. 'Q. I THINK THE LAST THING THAT I WANTED TO ASK YOU WAS THIS, THE NON-PROLIFERATION TREATY CAME INTO EXISTENCE AT A TIME WHEN EVERYBODY WAS LOOKING, I THINK I AM RIGHT IN SAYING, TO THE FAST BREEDER USING PLUTONIUM AS A FUEL AS BEING THE LONG-TERM CONCEPT, RIGHT? -

A. PRETTY GENERALLY, YES, WITH THE USUAL EXCEPTION OF CANADA.

Q. AT THAT STAGE, WITH POSSIBLY THE EXCEPTION OF CANADA, THAT WAS SEEN AS THE LONG-TERM FUTURE? -

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A. YES

Q. SO THAT WHEN PARTIES SIGNED THAT TREATY AND
THE NUCLEAR POWERS UNDERTOOK TO SUPPLY SOURCE
MATERIALS TO OTHERS FOR PEACEFUL USE THAT
INEVITABLY WOULD APPEAR TO HAVE CONTEMPLATED
PROVIDING PLUTONIUM TO OTHERS FOR PEACEFUL USE,
BECAUSE THAT WAS THE FUTURE WHICH EVERYBODY THEN
SAW. IT MAY HAVE BEEN FOOLISH BUT WOULD YOU
AGREE THAT THAT MUST HAVE BEEN THE CASE? -

A. I THINK THAT WAS CERTAINLY THE INTENTION,
YES, AS I UNDERSTAND IT.

Q. THEREFORE IT MUST FOLLOW MUST IT NOT THAT A
POLICY, BY WHOMSOEVER IT IS OPERATED, WHICH DENIES
PLUTONIUM TO OTHERS IS AT ANY RATE IN BREACH, AS
THE JAPANESE FOREIGN MINISTER SAID, OF THE
SPIRIT OF ARTICLE 4?

A. CERTAINLY OF THE SPIRIT OF ARTICLE 4, YES'.

MY REFERENCE TO THE JAPANESE MINISTER'S STATEMENT
IS TO A STATEMENT BY MR. SOSUKE UNO, MINISTER FOR
SCIENCE AND TECHNOLOGY IN JAPAN AND CHAIRMAN OF THE
JAPANESE ATOMIC ENERGY COMMISSION, MADE ON THE 31

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MAY 1977 IN WHICH HE SAID
'...SUPPOSING THAT THE TECHNOLOGY OF REPROCESSING

AND PLUTONIUM USE WERE TO BECOME THE EXCLUSIVE PROPERTY OF THE NUCLEAR WEAPON STATES, BEING DENIED TO OTHERS, THIS WOULD BE CONTRARY TO THE SPIRIT OF ARTICLE 4 OF THE NUCLEAR NON-PROLIFERATION TREATY (NPT), WHICH GUARANTEES EVERY NATION AN EQUAL RIGHT TO THE PEACEFUL USE OF NUCLEAR ENERGY.'

6.19 BEFORE COMING TO RECENT EVENTS, THE SCOPE OF THE DEVELOPMENT OF NUCLEAR POWER IN THE WORLD OUTSIDE THE COMMUNIST COUNTRIES MUST BE NOTICED. IT CAN BEST BE SUMMARISED IN A PASSAGE FROM THE EVIDENCE OF MR. PATTERSON WHEN BEING CROSS-EXAMINED BY LORD SILSOE FOR BNFL.

'Q. COULD I ASK YOU, PLEASE, TO TURN TO ANOTHER COUNTRY'S POSITION, JAPAN, AND ASK YOU TO TAKE DOCUMENT 239. -A. YES, I HAVE IT.

Q. THIS IS A SPEECH DELIVERED, AS APPEARS AT PARAGRAPH 1, TO REPRESENTATIVES OF THE FOREIGN PRESS ON THE SUBJECT OF ATOMIC ENERGY BY MR. SOSUKE UNO, THE MINISTER OF STATE FOR SCIENCE AND TECHNOLOGY, AND THE CHAIRMAN OF THE ATOMIC ENERGY COMMISSION OF JAPAN. THERE ARE JUST FIVE PASSAGES I WOULD ASK YOU TO LOOK AT HERE AND I WOULD ASK YOU TO COMMENT ON.

AT PAGE 2, IN PARAGRAPH 3, HE SAYS THIS:

'SINCE PRESIDENT EISENHOWER'S CALL FOR 'ATOMS FOR PEACE' IN 1953 AND THE FIRST INTERNATIONAL CONFERENCE ON THE PEACEFUL USES OF ATOMIC ENERGY IN 1955, JAPAN HAS RECEIVED FROM THE UNITED STATES THE LIGHT-WATER REACTOR TECHNOLOGY AND A SUPPLY OF NUCLEAR FUELS, SUCH AS ENRICHED

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URANIUM, UNDER THE US-JAPAN ATOMIC ENERGY CO-OPERATION AGREEMENT.

"FURTHER WITH THE UNITED STATES' UNDERSTANDING, DEVELOPMENT."

JAPAN HAS FORMULATED ITS ATOMIC ENERGY POLICY ON THE BASIS OF REUSE OF THE PLUTONIUM AND DEPLETED URANIUM OBTAINED BY REPROCESSING SPENT FUEL. TO THIS END, OVER THE PAST TWO DECADES WE HAVE COMMITTED NATIONAL APPROPRIATION OF NEARLY THREE BILLION DOLLARS TO RESEARCH AND DEVELOPMENT."

NOW, WHAT THE MINISTER IS SAYING, AND I DARE ASK YOU WHETHER YOU HAVE ANY DISAGREEING COMMENT ON IT, IS THAT HIS COUNTRY, HAS, WITH THE FULL KNOWLEDGE AND UNDERSTANDING OF THE UNITED STATES, FORMULATED ITS ATOMIC ENERGY POLICY ON THE BASIS THAT SPENT FUEL WILL BE REPROCESSED AND DEPLETED

URANIUM AND PLUTONIUM REUSED AND THAT THEY HAVE
SPENT A VERY LARGE SUM OF MONEY TO THAT END?-

A. QUITE SO, I THINK THE SAME IS TRUE FOR ALL
COUNTRIES THAT WERE ENCOURAGED INTO CIVIL NUCLEAR
TECHNOLOGY WITH THE SINGLE EXCEPTION OF CANADA'.

6.20 IT IS AGAINST THIS GENERAL BACKGROUND THT
ONE COMES TO CURRENT US POLICY AND REACTIONS TO IT.
THIS POLICY WAS REFERRED TO AS PRESIDENT CARTER'S
POLICY AND, IN MOMENTS OF ENTHUSIASM, AS PRESIDENT
CARTER'S 'GREAT INITIATIVE' OR 'GREAT MORAL LEAD'.
IT SHOULD HOWEVER NOT BE FORGOTTEN THAT THE POLICY
HAD ITS BIRTH IN PRESIDENT FORD'S STATEMENT OF
OCTOBER 1976:

'I HAVE DECIDED THAT THE UNITED STATES SHOULD NO

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LONGER REGARD REPROCESSING USED NUCLEAR FUEL TO
PRODUCE PLUTONIUM AS A NECESSARY AND INEVITABLE
STEP IN THE NUCLEAR CYCLE AND THAT WE SHOULD
PURSUE REPROCESSING AND RECYCLING IN THE FUTURE
ONLY IF THEY ARE FOUND TO BE CONSISTENT WITH OUR
INTERNATIONAL OBJECTIVES.'

IT WAS STRENUOUSLY URGED THAT THIS COUNTRY SHOULD
FOLLOW THAT POLICY BECAUSE FAILURE TO DO SO WOULD
INCREASE PROLIFERATION RISKS. TO FOLLOW THE POLICY
WOULD, IT WAS SAID, INVOLVE REFUSAL OF PLANNING
PERMISSION FOR THORP.

6.21 THE POLICY WAS DEVELOPED BY PRESIDENT CARTER AS A NEWS CONFERENCE ON 7 APRIL 1977. IT COMPRISED IN ESSENCE THE FOLLOWING:-

1. INDEFINITE DEFERMENT OF COMMERCIAL REPROCESSING AND RECYCLING OF PLUTONIUM.
2. GIVING INCREASED PRIORITY TO THE SEARCH FOR ALTERNATIVE DESIGNS FOR THE FBR AND DEFERRING THE DATE WHEN FBRs WOULD BE PUT INTO USE.
3. INCREASING US CAPACITY TO PROVIDE ADEQUATE AND TIMELY SUPPLIES OF NUCLEAR FUELS TO

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COUNTRIES THAT NEEDED THEM '(IN ITALICS) SO THAT THEY WILL NOT BE REQUIRED OR ENCOURAGED TO REPROCESS THEIR OWN MATERIALS (END ITALICS)'

4. PROPOSING TO CONGRESS THE NECESSARY LEGISLATION TO SIGN SUPPLY CONTRACTS AND (IN ITALICS) REMOVE THE PRESSURE FOR THE REPROCESSING OF NUCLEAR FUELS BY OTHER COUNTRIES WHICH DID NOT THEN HAVE THAT CAPABILITY (END ITALICS).
5. AN EMBARGO ON THE EXPORT OF EQUIPMENT OR TECHNOLOGY THAT COULD PERMIT URANIUM ENRICHMENT OR CHEMICAL REPROCESSING.
6. PURSUING DISCUSSIONS OF A WIDE RANGE OF INTERNATIONAL APPROACHES AND FRAMEWORKS THAT WOULD PERMIT ALL COUNTRIES TO ACHIEVE THEIR OWN ENERGY NEEDS WHILE AT THE SAME TIME REDUCING THE SPREAD OF THE CAPABILITIES FOR NUCLEAR EXPLOSIVE DEVELOPMENT.

THE ITALICS ARE MINE.

UNDER THE LAST HEADING THE PRESIDENT MENTIONED THE ESTABLISHMENT OF AN INTERNATIONAL FUEL CYCLE EVALUATION PROGRAMME (INFCEP) 'SO THAT WE CAN SHARE WITH COUNTRIES WHICH HAVE TO REPROCESS NUCLEAR FUEL THE RESPONSIBILITY FOR CURTAILING THE ABILITY FOR THE DEVELOPMENT OF EXPLOSIVES.' THE INFCEP HAS SINCE THEN BEEN ESTABLISHED. THE PRESIDENT ALSO MENTIONED THAT THE US WOULD HAVE TO HELP TO PROVIDE SOME MEANS FOR THE STORAGE OF SPENT FUEL AND, SINCE THAT TIME, PLANS HAVE BEEN ANNOUNCED FOR THE US TO RECEIVE AND STORE SUCH FUEL.

6.22 CERTAIN REMARKS MADE BY THE PRESIDENT AT THIS NEWS CONFERENCE ARE OF SIGNIFICANCE IN THE CONTEXT OF THE QUESTION WHETHER PERMISSION FOR THORP, AND

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ITS BUILDING PURSUANT TO SUCH PERMISSION, WOULD RUN
COUNTER TO US POLICY. I QUOTE THEM:-

- A. 'WE ARE NOT TRYING TO IMPOSE OUR WILL ON
THOSE NATIONS LIKE JAPAN, FRANCE, BRITAIN AND
GERMANY WHICH ALREADY HAVE REPROCESSING
PLANTS IN OPERATION.'
- B. 'OBVIOUSLY, THE SMALLER NATIONS, THE ONES
THAT NOW HAVE ESTABLISHED ATOMIC POWER PLANTS,
HAVE TO HAVE SOME PLACE EITHER TO STORE THEIR
SPENT FUEL OR TO HAVE IT REPROCESSED AND I
THINK WE COULD VERY LIKELY SEE A CONTINUATION
OF REPROCESSING CAPABILITIES WITHIN THOSE
NATIONS THAT I HAVE NAMED AND PERHAPS OTHERS.
WE IN OUR OWN COUNTRY DO NOT HAVE THIS
REQUIREMENT. IT IS AN OPTION THAT WE MIGHT
HAVE TO EXPLORE MANY, MANY YEARS INTO THE
FUTURE.'
- C. 'I HOPE THAT BY THIS UNILATERAL ACTION WE CAN
SET A STANDARD AND THAT THOSE COUNTRIES
WHICH DON'T NOW HAVE REPROCESSING CAPABILITY
WILL NOT ACQUIRE THAT CAPABILITY IN THE
FUTURE.'
- D. 'THE ONE DIFFERENCE THAT HAS BEEN VERY
SENSITIVE, IT RELATES TO, SAY, GERMANY,
JAPAN AND OTHERS IS THAT THEY FEEL THAT OUR
UNILATERAL ACTION IN RENOUNCING THE
REPROCESSING OF SPENT FUELS TO PRODUCE
PLUTONIUM MIGHT IMPLY THAT WE CRITICISE THEM
SEVERELY BECAUSE OF THEIR OWN NEED FOR
REPROCESSING. THIS IS NOT THE CASE. THEY

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HAVE A PERFECT RIGHT TO GO AHEAD AND CONTINUE WITH THEIR OWN REPROCESSING EFFORTS. BUT WE HOPE THAT THEY WILL JOIN WITH US IN ELIMINATING IN THE FUTURE ADDITIONAL COUNTRIES WHICH MIGHT HAVE HAD THIS CAPABILITY EVOLVE.'

6.23 IT IS CLEAR THAT, WHEN THE PRESIDENT WAS ACKNOWLEDGING THE RIGHT OF COUNTRIES SUCH AS OURS TO CONTINUE REPROCESSING, HE REFERRED TO REPROCESSING FOR HOME USE OF THE PLUTONIUM ONLY. IT WOULD BE ABSURD TO OBJECT TO THE EXPORT OF REPROCESSING CAPABILITY TO NATIONS WHICH DO NOT HAVE IT, BUT TO HAVE NO OBJECTION TO THE EXPORT OF PLUTONIUM ITSELF. NEVERTHELESS IT APPEARS TO BE CLEAR THAT THE BUILDING OF THORP ITSELF WOULD NOT BE COUNTER TO US POLICY SO LONG AS NO PLUTONIUM PRODUCED BY IT WAS EXPORTED. SO LIMITED THERE WOULD BE NO DIRECT INCREASE IN PROLIFERATION RISKS.

6.24 IF THE USE OF THORP WERE NOT SO LIMITED AND PLUTONIUM WERE SUPPLIED TO NON-NUCLEAR-WEAPONS STATES IT WOULD NOT BE SO SUPPLIED UNTIL, AT THE

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EARLIEST, 10 YEARS FROM NOW, FOR THORP WOULD NOT BE OPERATIVE UNTIL THEN. THE EFFECTIVE RISK WOULD THUS BE A RISK OF INCREASED PROLIFERATION, AT THE EARLIEST, IN 10 YEARS TIME. IN THE MEANTIME THE INCENTIVE TO CUSTOMERS TO DEVELOP THEIR OWN FACILITIES WOULD BE REDUCED BY THE KNOWLEDGE THAT THEY COULD SEND THEIR SPENT FUEL HERE, HAVE IT REPROCESSED AND HAVE THE PLUTONIUM REQUIRED FOR FAST BREEDER PROGRAMMES RETURNED TO THEM, EITHER AS PLUTONIUM OR IN THE FORM OF FUEL RODS.

ON THE OTHER HAND, SUPPOSE THAT THE USE OF THORP IS LIMITED, AND THAT NATIONS WITH THE CAPABILITY TO REPROCESS DENY IT TO OTHERS, THE INCENTIVE TO OTHERS TO DEVELOP THEIR OWN CAPABILITY MUST IMMEDIATELY BE INCREASED. US POLICY CLEARLY ACKNOWLEDGES THIS BY ITS INCLUSION OF THE NEED BOTH TO ASSURE SUPPLIES OF ENRICHED URANIUM AND TO PROVIDE STORAGE FOR SPENT FUEL. THE QUESTION WHICH THEREFORE ARISES IS WHETHER THESE TWO PROVISIONS WOULD BE EFFECTIVE TO NULLIFY THE INCREASED INCENTIVE WHICH DENIAL BY ITSELF WOULD PRODUCE.

6.25 THE CIVIL INCENTIVE TO REPROCESS IS THE ACHIEVEMENT OF RESOURCE INDEPENDENCE, FOR A COUNTRY WHICH DEPENDS FOR ITS NUCLEAR REACTOR FUEL SUPPLIES ON IMPORTS, IS IN A VULNERABLE POSITION BOTH FINANCIALLY AND POLITICALLY. THE DISADVANTAGE OF BECOMING TOO DEPENDENT ON IMPORTING OIL SUPPLIES HAS BEEN ALL TOO EFFECTIVELY DEMONSTRATED IN RECENT YEARS AND IT WAS SUBMITTED TO ME THAT, UNDER PRESENT CIRCUMSTANCES, COUNTRIES WITH NO REPROCESSING CAPABILITIES COULD BE FORCED TO STOP THE DEVELOPMENT OF SUCH CAPABILITY, IF THE COUNTRIES UPON WHOM THEY RELIED FOR URANIUM SUPPLIES

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OR ENRICHMENT SERVICES JOINED IN WITHHOLDING SUPPLIES FROM THEM. SUCH A SANCTION IS UNDOUBTEDLY A POWERFUL ONE. IT COULD ALSO BE USED TO ENFORCE THE ACCEPTANCE OF POLICIES OTHER THAN NON-PROLIFERATION. LIMITATION OF REPROCESSING WOULD PREVENT THE RESOURCE INDEPENDENCE WHICH IS LEGITIMATELY SOUGHT BY NATIONS WITHOUT THEIR OWN SUPPLIES. FURTHERMORE IF, AT THE SAME TIME AS FOREGOING REPROCESSING, SUCH NATIONS WERE TO SEND THEIR SPENT FUEL TO THE UNITED STATES (OR TO OTHER NATIONS WITH AN EXISTING CAPABILITY) FOR STORAGE, THEY WOULD BE DEPRIVING THEMSELVES OF AN EXISTING CAPABILITY TO BECOME RESOURCE INDEPENDENT. IF THE SPENT FUEL IS RETAINED THE POSSIBILITY OF SO BECOMING REMAINS.

6.26 IT MUST BE AT LEAST DOUBTFUL IF ASSURANCES OF ENRICHED URANIUM SUPPLIES AND THE ACCEPTANCE OF SPENT FUEL WOULD OR WILL RELIEVE THE PRESSURE, PARTICULARLY WHEN WITHHOLDING OF REPROCESSING TECHNOLOGY AND SERVICES IS, AT THE LEAST, AGAINST THE SPIRIT OF THE EXISTING NPT, AND WOULD RENDER ABORTIVE THE VERY LARGE EXPENDITURES ENCOURAGED BY THE INITIATOR OF THE POLICY OF DENIAL. WHAT GUARANTEE COULD THERE BE THAT THE ASSURANCE OF ENRICHED URANIUM SUPPLIES WOULD NOT ITSELF BE IGNORED AT SOME TIME IN THE FUTURE? MIGHT NOT AMERICA AND THE OTHER NUCLEAR-WEAPON STATES HAVE YET ANOTHER CHANGE OF POLICY AND IGNORE UNDERTAKINGS TO PROVIDE ENRICHED URANIUM? OTHER COUNTRIES MIGHT ASK THEMSELVES SUCH QUESTIONS AS

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SS-15 STR-07 TRSE-00 ACDA-12 PA-02 NRC-07 CEQ-01

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THESE. IF THEY DID, THE RESPONSE TO THE POLICY MIGHT WELL BE A MARKED ACCELERATION IN THE DEVELOPMENT OF REPROCESSING CAPABILITY AS AN INSURANCE AGAINST FUTURE CHANGES IN POLICY. IF THIS WERE TO HAPPEN, THEN, BEFORE EVER THORP COULD HAVE PRODUCED A SINGLE KILOGRAM OF PLUTONIUM, SEVERAL OTHER COUNTRIES MIGHT WELL HAVE PRODUCED THEIR OWN.

6.27 I HAVE ALREADY MENTIONED THE JAPANESE REACTION TO THE POLICY. I SHOULD ALSO MENTION THAT THE COMMISSION OF THE EUROPEAN COMMUNITIES IN ITS COMMUNICATION TO THE COUNCIL OF THE EEC ON 2 JULY 1977, ENTITLED 'POINTS FOR COMMUNITY STRATEGY ON THE REPROCESSING OF IRRADIATED NUCLEAR FUELS' (G30) ADVOCATED THE DEVELOPMENT OF REPROCESSING AND CONSIDERED IT TO BE COMPATIBLE WITH NON-PROLIFERATION.

6.28 IT MUST ALSO BE REMEMBERED THAT IT MAY BE NECESSARY IN SOME CASES TO REPROCESS SPENT FUEL AND THIS IS RECOGNISED BY CURRENT US POLICY. ON 1 JULY 1977 THE DEPUTY ASSISTANT SECRETARY OF THE US BUREAU OF OCEANS AND INTERNATIONAL AND SCIENTI-

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FIC AFFAIRS WROTE, IN A LETTER TO THE ATTORNEY FOR THE NRDC:

'IN RESPONSE TO YOUR INQUIRY OF US POLICY GOVERNING REQUESTS WE RECEIVE TO APPROVE THE

RETRANSFER OF US-ORIGIN SPENT FUEL FOR REPROCESS-
ING, OUR POLICY IS THAT EACH SUCH REQUEST WILL BE
CONSIDERED ON A CASE-BY-CASE BASIS, WITH APPROVAL
CONTINGENT ON A CLEAR SHOWING OF NEED, SUCH AS
SPENT FUEL STORAGE CAPACITY PROBLEMS.'

ONE SUCH PERMISSION DATED 16 SEPTEMBER 1977 HAS
ALREADY BEEN GRANTED TO JAPAN TO TRANSFER 8.3
TONNES OF SPENT FUEL TO BNFL FOR REPROCESSING ON
THE BASIS THAT THIS WAS VITALLY NECESSARY TO
MAINTAIN A PARTICULAR POWER STATION IN OPERATION,
THE SPENT FUEL STORAGE CAPACITY BEING FULL. IT IS
INTERESTING TO NOTE THAT ONE OF THE CONDITIONS
ATTACHED WAS:

'THAT THIS SPENT FUEL IS TO BE RETAINED BY BNFL
UNTIL...REPROCESSING AND THAT THEREAFTER THE
PRODUCED PLUTONIUM WILL BE RETURNED TO JAPAN...
IN ACCORDANCE WITH APPLICABLE AGREEMENTS FOR
CO-OPERATION SUCH TRANSFERS WOULD, AT THAT TIME,
HAVE TO BE APPROVED BY THE GOVERNMENT OF THE
UNITED STATES.'

PROFESSOR WOHLSTETTER HAD ACCEPTED, PRIOR TO THE
ISSUE OF THIS PERMISSION, THAT PERMISSIONS WOULD BE
GIVEN IN SOME CASES, THAT THERE MUST BE A RELIABLE
PLANT SOMEWHERE, AND THAT BOTH FRANCE AND THE
UNITED KINGDOM WERE POSSIBLY SUITABLE LOCATIONS.
THIS WAS ALSO ACCEPTED BY PROFESSOR ROTBLAT.

6.29 HOW MANY PERMISSIONS THERE WILL BE AND FOR HOW
MUCH SPENT FUEL IT IS IMPOSSIBLE TO ASSESS. IT
APPEARS THAT THEY WILL BE GIVEN WHERE STORAGE

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CAPACITY HAS EXPIRED, AT LEAST UNTIL ADDITIONAL
STORAGE CAPACITY HAS BEEN CREATED SOMEWHERE. THEY
MAY ALSO HAVE TO BE GIVEN IN CASES WHERE THE
CONDITION OF FUEL ON LEAVING A REACTOR, OR AFTER
A PERIOD OF POND STORAGE, IS SUCH THAT STORAGE OR
FURTHER STORAGE IS UNDESIRABLE. WITH SO MUCH SPENT
FUEL ARISING IN THE COURSE OF THE NEXT TWO DECADES
IT IS CLEAR THAT THERE SHOULD BE ADEQUATE AND
RELIABLE REPROCESSING FACILITIES WITH SPARE
CAPACITY SOMEWHERE AND THAT THE OBVIOUS LOCATIONS
FOR SUCH FACILITIES ARE IN ONE OR MORE OF THE
PRESENT NUCLEAR WEAPON STATES.

6.30 IF SUCH FACILITIES ARE CREATED THEIR
CREATION WILL NOT, AS I SEE IT, INCREASE THE
PROLIFERATION RISK UNLESS EITHER

- A. THEIR CREATION NECESSARILY INVOLVES, OR IS
TREATED BY OTHERS AS NECESSARILY INVOLVING,
A COMMITMENT TO PLUTONIUM-USING FBRS OR
- B. THE PLUTONIUM PRODUCED BY THE FACILITIES IS

RETURNED TO FUEL OWNERS IN A FORM WHICH WILL
ENABLE THE OWNER COUNTRY TO PROCEED TO A BOMB
WITHOUT TIME FOR DIPLOMATIC PRESSURE TO BE
EXERTED.

6.31 IN VIEW OF THE AMOUNT OF PLUTONIUM WHICH WILL
IN ANY EVENT BE PRODUCED FROM MAGNOX REPROCESSING
AND THE PLAIN NEED TO HAVE A REPROCESSING PLANT
SOMEWHERE, THE CREATION OF THORP COULD NOT IN MY
VIEW REASONABLY BE SEEN AS A COMMITMENT OF THE KIND
MENTIONED. INDEED IT IS HARD TO SEE HOW ANY SUCH
COMMITMENT COULD BE MADE UNTIL A COMMERCIAL FBR HAD

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ACTION OES-07

INFO OCT-01 EUR-12 ISO-00 SOE-02 AID-05 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 DOE-11 H-02 INR-10 INT-05
L-03 NSAE-00 NSC-05 OMB-01 PM-05 USIA-15 SP-02
SS-15 STR-07 TRSE-00 ACDA-12 PA-02 NRC-07 CEQ-01
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BEEN BUILT AND SUCCESSFULLY OPERATED FOR SOME YEARS.
WHEN THAT STAGE HAD BEEN REACHED, BUT NOT UNTIL
THEN, WOULD A COUNTRY KNOW WHETHER IT COULD, EVEN
IF IT WANTED TO, COMMIT ITSELF TO A PLUTONIUM-
USING FBR PROGRAMME.

6.32 RETURNING THE PLUTONIUM TO NON-NUCLEAR-
WEAPON OWNER COUNTRIES WILL REPRESENT AN INCREASED
RISK, BUT THIS MIGHT BE MITIGATED BY RETURNING ONLY
WHEN REQUIRED FOR CIVIL REACTORS AND THEN ONLY IN
THE FORM OF BRIEFLY IRRADIATED FUEL RODS.

6.33 WHETHER THIS RISK, WHICH WILL NOT ARISE FOR
AT LEAST 10 YEARS, IS OR IS NOT A GREATER RISK
THAN THE INCREASED INCENTIVE WHICH THE DENIAL OF
TECHNOLOGY AND FACILITIES WOULD IMMEDIATELY CREATE,

IS A MATTER WHICH I CANNOT ASSESS. ITS ASSESSMENT IS
A MATTER FOR THE GOVERNMENT AND DEPENDS AMONGST
OTHER THINGS ON INFORMATION ON THE REACTIONS OF
OTHER COUNTRIES TO THE POLICY. THE ARGUMENT THAT
THE GRANT OF PERMISSION WOULD ADD TO PROLIFERATION
RISKS WAS NOT HOWEVER ESTABLISHED BEFORE ME.
INDEED I WOULD GO FURTHER. SINCE (I) THERE WILL BE
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NO DIRECT RISK ARISING FROM THORP FOR AT LEAST 10
YEARS (II) TO DENY REPROCESSING FACILITIES WOULD BE
AGAINST THE SPIRIT - AND AS I THINK THE LETTER - OF
OUR OBLIGATIONS UNDER THE MAIN EXISTING BULWARK
AGAINST PROLIFERATION (III) THE DENIAL OF SUCH
FACILITIES WOULD CREATE AN IMMEDIATE INCENTIVE TO
OTHERS TO DEVELOP THEIR OWN FACILITIES (IV) THERE
IS A WORLD NEED FOR ADEQUATE REPROCESSING FACILI-
TIES SOMEWHERE, IT APPEARS TO ME THAT A GRANT OF
PERMISSION WOULD HAVE A NON-PROLIFERATING EFFECT
RATHER THAN THE REVERSE. I DO NOT ACCEPT THAT
THE BEST WAY TO ACHIEVE A NEW BARGAIN IS TO BREAK
AN EXISTING ONE.

6.34 IT MAY BE THAT, IF PERMISSION IS GRANTED,
INFCEP WILL THEREAFTER RESULT IN AN INTERNATIONAL
AGREEMENT NOT TO REPROCESS COMMERCIALY. IF IT
DOES, IT DOES NOT FOLLOW THAT THORP WOULD THEN BE
REDUNDANT. THE ACCUMULATION OF EVER LARGER STOCKS
OF SPENT FUEL IN THE WORLD, WITHOUT FACILITIES
AVAILABLE TO REPROCESS CONSIDERABLE QUANTITIES
SHOULD SOME UNFORESEEN PROBLEM RENDER IT SO
NECESSARY, WOULD IN MY VIEW BE, AT BEST,
IMPRUDENT, AND, AT WORST, IRRESPONSIBLE. EVEN,
HOWEVER, IF THORP DID BECOME REDUNDANT, AND I DO
NOT CONSIDER THAT IT WOULD, THIS WOULD MERELY
MEAN THAT SOME EXPENDITURE WOULD HAVE BEEN WASTED.
THIS IS AN EVENT WHICH MAY ALWAYS HAPPEN WHEN PLANS
ARE MADE TO COVER CONTINGENCIES MANY YEARS AHEAD.
THE EXPENDITURE MAY BE REGARDED AS AN INSURANCE
PREMIUM.

2. SECTIONS (16) AND (17) WILL BE TRANSMITTED BY
SEPARATE CABLE.
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Message Attributes

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